



**DECISION
OF AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Medical Assistance
MinnesotaCare
Qualified Health Plan

Agency: Minnesota Department of Human Services
MNsure Board

Docket: 164402

On July 22, 2015, Appeals Examiner Kulani R. Moti held an evidentiary hearing under 42 United States Code §18081(f), Minnesota Statute §62V.05, subdivision 6(a), and Minnesota Statute §256.045, subdivision 3.

The following people appeared at the hearing:

[REDACTED] Appellant.

Based on the evidence in the record and considering the arguments of the parties, I recommend the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

Whether the MNsure Board accurately determined Appellant is not able to enroll in a 2014 qualified health plan.

Whether the MNsure Board correctly determined that the Appellant is ineligible for enrollment in a Qualified Health Plan (QHP) outside of the open enrollment period.

FINDINGS OF FACT

1. On June 11, 2015, [REDACTED] (Appellant) filed an appeal of MNsure Agency (MNsure) and the Minnesota Department of Human Services (DHS) actions. *Exhibit A*. Appellant's appeal states he was told by a Navigator in 2013, while submitting his 2014 application, and MNsure representatives that he would receive information in the mail for his 2014 coverage. Appellant did not receive anything. Appellant believed he was enrolled in MinnesotaCare until he contacted the Agency call center in 2015. *Exhibit A*. On July 22, 2015, Appeals Examiner Kulani R. Moti held an evidentiary hearing by telephone conference. On that date, three exhibits¹ were admitted into the record. The record was held open until August 7, 2015, for Appellant to submit additional written documents. On August 7, 2015, the record was closed with no additional written documents from Appellant.
2. On October 21, 2014, Appellant applied for healthcare coverage as a single individual. On the application, Appellant reported and attested projected annual income of \$25,314. *Exhibit 1*. MNsure determined Appellant was eligible for a qualified health plan and tax credits of \$16.23 per month. *Exhibit 1*. Appellant did not enroll in a qualified health for 2014 coverage. *Exhibit 1*.
3. On April 1, 2014, Appellant contacted MNsure call center and reported that his income was going to be \$0 for 2014. *Exhibit 1*. MNsure forwarded the information to DHS to make an eligibility determination. *Exhibit 1*. It is unclear if DHS made a determination. There is no additional contact from Appellant to MNsure until February 18, 2015. *Exhibit 1*.
4. On February 18, 2015, Appellant contacted MNsure because he thought he had MinnesotaCare coverage. *Exhibit 1*. On that date, Appellant believed he filed an appeal with MNsure. *Testimony of Appellant*. MNsure does not have any record of Appellant filing an appeal on February 18, 2015. *Exhibit 1*.
5. On July 17, 2015, Appellant completed an application online for healthcare coverage. *Exhibit 1*. On his application, Appellant included his wife but only Appellant was applying for coverage. *Exhibit 1*. Appellant reported a projected annual income of \$34,500. *Exhibit 1*. Appellant reported that his married and will be filing taxes jointly with his wife.

¹ Exhibit 1 – DHS Appeal Summary; Exhibit 2 – MNsure Appeal Summary; Exhibit A – Appeal Request.

Exhibit 1. MNsure determined Appellant was eligible for a qualified health plan and tax credits of \$5.44 per month and cost sharing reductions of 73%. MNsure also determined Appellant was not eligible for a special enrollment period because he did not have a qualifying event. *Exhibit 1.*

6. Appellant is upset that he did not receive any paperwork mailed to him in 2014 from MNsure. *Testimony of Appellant.* Appellant did enroll in a qualified health plan in 2014. Appellant did make contact with MNsure several times in late 2014, but he did not enroll in a qualified health plan. *Testimony of Appellant.* Appellant is very upset that he had not been contacted by MNsure during this period. *Testimony of Appellant.* Appellant went through some personal issues in 2014 which made it difficult to work his healthcare coverage. *Testimony of Appellant.* Appellant did not file an appeal in 2014. *Testimony of Appellant.*

7. Appellant believes that he should be able to apply his tax credits that was awarded to him in 2014 to his 2015 coverage. *Testimony of Appellant.* Appellant also believes that he should qualify for MinnesotaCare coverage. *Testimony of Appellant.* Appellant wants retroactive coverage of his qualified health plan. Appellant has not moved nor has he had any loss of health coverage recently. *Testimony of Appellant.*

CONCLUSIONS OF LAW

1. For Medical Assistance and MinnesotaCare appeals, a person may request a state fair hearing by filing an appeal either: 1) within 30 days of receiving written notice of the action; or 2) within 90 days of such notice if the Appellant can show good cause why the request for an appeal was not submitted within the 30 day time limit. *Minn. Stat. § 256.045, subd. 3(h); Minn. Stat. § 256L.10.* For MNsure appeals, an appeal must be received within 90 days from the date of the notice of eligibility determination. *45 C.F.R. § 155.520(b)(1); Minn. R. 7700.0105, subp. 2(D).* Appellant did not file an appeal in 2014 for any reason. Appellant had limited contact with both MNsure and DHS in 2014. I find that Appellant did not file an appeal for his 2014 within the statutory timeframe of 90 days to file an appeal and therefore Appellant's appeal regarding his 2014 eligibility is not timely and the Commissioner and the MNsure board does not have the authority to hear the appeal. I do find that Appellant's appeal of his 2015 eligibility determination is timely and MNsure Board and the Commissioner have the legal authority to hear this appeal.

2. Pursuant to 45 C.F.R. 155.410(a)(2) the Exchange may only permit a qualified individual to enroll in a QHP or an enrollee to change QHPs during the initial open enrollment period, the annual open enrollment period, or a special enrollment period for which the qualified individual has been determined eligible. The initial open enrollment period begins October 1, 2013 and extends through March 31, 2014. *Id.* at (b). For the benefit year beginning on January 1, 2016, the annual open enrollment period begins on November 1, 2015, and extends through January 31, 2016. *Id.* at (e).

4. 45 C.F.R. 155.420(d) sets forth the special enrollment period criteria. The

Exchange must allow a qualified individual or enrollee to enroll in or change from one QHP to another if:

- 1) the qualified individual or his or her dependent loses minimum essential coverage;
- 2) the qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care;
- 3) An individual, who was not previously a citizen, national, or lawfully present individual gains such status;
- 4) A qualified enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange;
- 5) An enrollee adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- 6) An individual is determined newly eligible or newly ineligible for advance payments of the premium tax credit or has a change in eligibility for cost-sharing reductions, regardless of whether such individual is already enrolled in a QHP;
- 7) A qualified individual or enrollee gains access to new QHPs as a result of a permanent move;
- 8) An Indian, as defined by section 4 of the Indian Health Care Improvement Act, may enroll in a QHP or change from one QHP to another one time per month; and

A qualified individual or enrollee demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide

5. Appellant applied for 2015 healthcare coverage in July 2015. Appellant was found eligible for a qualified health plan, tax credits, and cost sharing reductions. Because Appellant applied for healthcare coverage outside the open enrollment period there needs to be a qualifying event in order for Appellant to qualify for a special enrollment. At this time, Appellant has not reported a qualifying event that would qualify him for a special enrollment period. Therefore, I find that the Agency correctly determined Appellant does not qualify for special enrollment period.

RECOMMENDED ORDER

THE APPEALS EXAMINER RECOMMENDS THAT:

- The MNSure Board DISMISS Appellant's appeal of his 2014 healthcare eligibility determination for not being filed timely thus MNSure Board does not have jurisdiction to hear this appeal.
- The Commissioner DISMISS Appellant's appeal of his 2014 healthcare eligibility determination for not being filed timely thus Commissioner does not have jurisdiction to hear this appeal.
- The MNSure Board AFFIRM the determination that the Appellant is ineligible for enrollment in a QHP outside the open enrollment period effective July 17, 2015

/s/ Kulani R. Moti
Kulani R. Moti
Appeals Examiner

September 21, 2015
Date

ORDER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the MNSure Board and the Commissioner of the Minnesota Department of Human Services adopt the Appeals Examiner's findings of fact, conclusions of law and order as each agency's final decision.

FOR THE MNSURE BOARD as to any effect the decision has on Appellant's eligibility through MNSure for Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program.

/s/ Louis Thayer
Louis Thayer
Co-Chief Human Services Judge

September 22, 2015
Date

cc: [REDACTED] Appellant
MNSure General Counsel
Teresa Saybe, Minnesota Department of Human Services - 0838

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal recourse.

If you disagree with the effect this decision has on your eligibility for **Advance Premium Tax Credits, Cost Sharing Reductions, Qualified Health Plan, and/or the Small Business Health Insurance Options Program**, you may:

- **Appeal to the United States Department of Health and Human Services (DHHS)** under 42 U.S.C. § 18081(f) and 45 C.F.R. § 155.520(c). This decision is the final decision of MNsure, unless an appeal is made to DHHS. An appeal request may be made to DHHS *within 30 days of the date of this decision* by calling the Marketplace Call Center at 1-800-318-2596 (TTY 855-889-4325); or by downloading the appeals form for Minnesota from the appeals landing page on www.healthcare.gov.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a written copy of a notice of appeal upon MNsure and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 62V.05, subdivision 6(e)-(i).

If you disagree with the effect this decision has on your eligibility for **Medical Assistance and/or MinnesotaCare** benefits, you may:

- **Request the Appeals Office reconsider this decision.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy of the request must be sent to the other parties*. Send your written request, with your docket number listed, to: *Appeals Office, Minnesota Department of Human Services, P.O. Box 64941, St. Paul, MN 55164-0941*. You may also fax the request to (651) 431-7523.
- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a written copy of a notice of appeal upon the Commissioner and any other adverse party of record, and filing the original notice and proof of service with the court administrator of the county district court. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.